IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No.18461 of 2002

Date of Decision:28.11.2007.

Mohan Lal and others

....Petitioners.

Versus

State of Punjab and others

...Respondents.

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL.
HON'BLE MR. JUSTICE AJAI LAMBA.

Present:- Mr.R.K.Arora,Advocate.

Mr. RS Khosla, Advocate.

Mr. Salil Sagar, Addl. AG Haryana.

****

ADARSH KUMAR GOEL, J.(ORAL)

This petition seeks a direction for grant of benefit to the petitioners in terms of the judgment of the Hon'ble Supreme Court dated 15.3.2000 in Civil Appeal No.8434 of 1997- Municipal Employees Union (Regd) Sirhind and others vs. State of Punjab and others 2000(9) SCC 432 and to give pay/wages for Saturdays and other gazetted holidays on which they worked, while other colleagues of the petitioners working in office were permitted to enjoy the holidays.

The case of the petitioners is that they are Class-III and Class-IV employees working on various posts under the Municipal Council, Nangal. They were discriminated in the matter of working days vis-a-vis employees working in offices and considering such an issue, the Hon'ble Surpeme Court in Municipal Employee Union (Regd.) Sirhind (supra) held

that such employees could seek appropriate relief under Section 33-C(2) of the Industrial Disputes Act 1947 (for short `the Act') . It was made clear that benefits could be given only for three years immediately preceding the filing of such a petition.

Vide order dated 21.11.2002, this Court directed that if the petitioners had performed their duties on Saturdays and Sundays and were covered by the judgment of Hon'ble Supreme Court in Municipal Employees Union (Regd.) Sirhind case (supra) they ought to be given the same benefit, failing which they will be at liberty to invoke the provisions of Section 33-C (2) of the Act.

The Municipal Council Nangal, aggrieved by the order of this Court dated 21.11.2002, preferred an appeal before the Hon'ble Surpeme Court which has been decided on 24.11.2006. The Hon'ble Surpeme Court noticed that the Punjab Municipal Karamchari Services Rules 1984 in terms of which each member of service was entitled to paid holidays only once in a week were not brought to the notice of this Court. Other employees were also governed by Punjab Employees (Class IV) Service Rules,1986 where-in a similar provision existed. The said rules were also not considered by this Court. The Hon'ble Surpeme Court directed that the matter may be considered again in the light of the above rules.

Learned counsel for the petitioners conceded that as far as Safai Karamcharies are concerned, they were covered by Punjab Municipal Safai Karamchari Service Rules, 1984 rules and were not entitled to any extra remuneration for working on Saturdays and they could get paid holidays only once in a week. He further submits that under the 1986 rules there was no similar provision. Learned counsel for the petitioners also submits that

the petitioners are entitled to parity with employees of other municipalities.

Learned counsel for the Municipal Council Nangal submits that the petitioners other than Safai Karamcharies were also not entitled to parity with the office staff in terms of the judgment of Hon'ble Surpeme Court in Municipal Employees Union (Regd.) supra, inter-alia for the following reasons:

(i) Five days week for octroi staff was implemented w.e.f. 1.4.2001 and the judgment of the Supreme Court could apply only to six petitioners subsequent to that date;

(ii) Except the petitioners at Sr. no.26, 33 to 35 and 2 peons at Sr. No.85 and 89, all other petitioners were field staff who could not be posted in the office and they were covered by the Punjab Municipal Employees Committee Report,1969 which was being followed under Clause 11.07. Clerks peons and rest of the field staff are entitled to only one day weekly off.

No reply has been filed on behalf of the State but the learned counsel for the State points out that 1984 rules also cover other employees covered by the definition of `service' under Rule 2 (g) of the 1984 Rules.

After considering the rival submissions, we are of the view that several disputed questions arise for consideration for determining the claim of the petitioners of parity with the office staff.

In view of above, a direction in terms of judgment of Hon'ble Supreme Court in Municipal Employees Union (Regd.), Sirhind

(supra) as sought in this petition cannot be given without adjudication of disputed questions.

Accordingly, we dispose of this petition with liberty to the petitioners to take such other remedy as may be available in accordance with law.

(ADARSH KUMAR GOEL)
JUDGE

(AJAI LAMBA)
JUDGE

Nov.28,2007.
Reema